

As an initial matter Applicant notes that the Examiner does not require restriction of the claims, i.e., does not allege that the claims define separate and distinct inventions. Rather the Examiner requires election, ostensibly under 35 U.S.C. 121, of a disclosed species. Specifically, the Examiner alleges that "[c]laims 1-11 are generic to a plurality of disclosed patentably distinct species comprising various inhibitors of the membrane expression of a benzodiazepine receptor", (Instant Office Action at page 2, first paragraph).

Applicant notes that the foregoing quotation comprises the entirety of the Examiner's substantive remarks. The Examiner provides neither rationale in support of this allegation nor any indication as to why or how the "various inhibitors" may be considered patentably distinct in the context of the claimed subject matter. Indeed the Examiner makes no attempt even to identify any particular specie or group of species from which Applicant ostensibly is required to elect.

Thus it can be seen that the issue of election has not been properly framed. Nevertheless the rules require that Applicant include an election in Applicant's reply even if the election requirement is considered improper. Applicant provisionally elects, with traverse, one of the two species specifically recited at claim 6: a compound of formula I (see claim 5) wherein R^1 is -OH, R^2 is -OH, and R^3 is -H. For the Examiner's possible convenience Applicant notes that this specie corresponds to

Ginkgolide B. (See the Instant Application at page 7, lines 28-29.)

Based upon the foregoing, Applicant believes that all species should be examined together. Should the Examiner maintain the position that the various species are patentably distinct then Applicant respectfully requests that the Examiner provide clear and explicit reasons in support thereof.

Respectfully submitted,

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